

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF NEW YORK

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RASHAWN E. LEWIS,

Plaintiff,

v.

RICHARD GIARDINO,

Defendant.

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1:15-CV-166  
(TJM/ATB)

THOMAS J. MCAVOY,  
Senior United States District Judge

DECISION & ORDER

I. INTRODUCTION

This *pro se* action brought pursuant to 42 U.S.C. § 1983 was referred by this Court to the Hon. Andrew T. Baxter, United States Magistrate Judge, for a Report and Recommendation pursuant to 28 U.S.C. § 636(b) and Local Rule 72.3(c).

In his Order and Report-Recommendation, Magistrate Judge Baxter ordered that Plaintiff's *in forma pauperis* application (Dkt. No. 2) be granted; recommended that the action be dismissed in its entirety pursuant to 28 U.S.C. § 1915(e)(2)(B)(i)-(iii) based on absolute immunity and for failure to state a claim upon which relief can be granted; and ordered that Plaintiff's motion for appointment of counsel (Dkt. No. 3) be denied as moot. See Rep. Rec. & Order, Dkt. # 4. Plaintiff filed an objection to Magistrate Judge Baxter's recommendation. See Dkt. No. 5.

## II. STANDARD OF REVIEW

When objections to a magistrate judge's report and recommendation are lodged, the district court makes a "*de novo* determination of those portions of the report or specified proposed findings or recommendations to which objection is made." See 28 U.S.C. § 636(b)(1); see also United States v. Male Juvenile, 121 F.3d 34, 38 (2d Cir. 1997) (The Court must make a *de novo* determination to the extent that a party makes specific objections to a magistrate's findings.).

## III. DISCUSSION

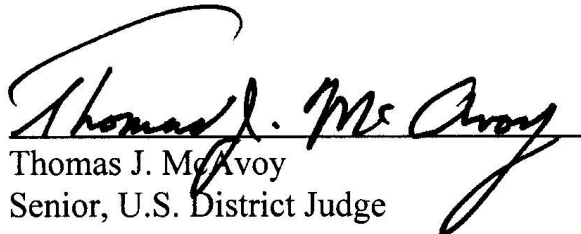
Having considered Plaintiff's objections and having completed a *de novo* review of the issues raised by the objections, the Court accepts and adopts Magistrate Judge Baxter's recommendations for the reasons stated in his report.

## IV. CONCLUSION

For the reasons discussed above, the Court accepts and adopts Magistrate Judge Baxter's Order and Report-Recommendation in its entirety. Accordingly, Plaintiff's action is **DISMISSED IN ITS ENTIRETY** pursuant to 28 U.S.C. § 1915(e)(2)(B)(i)-(iii) based on absolute immunity and for failure to state a claim upon which relief can be granted. To the extent that Plaintiff renews his motion for appointment of counsel in his objections, that motion is denied as moot.

**IT IS SO ORDERED.**

Dated: March 12, 2015

  
Thomas J. McAvoy  
Senior, U.S. District Judge